



DEPARTMENT OF THE TREASURY

Internal Revenue Service
TE/GE EO Examinations
1100 Commerce Street
Dallas, TX 75424

TAX EXEMPT AND GOVERNMENT ENTITIES DIVISION

Number: **200829037**
Release Date: 7/18/2008

April 21, 2008

LEGEND

ORG = Organization name XX = Date Address = address

ORG
ADDRESS

Identification Number:
Contact Telephone Number:
In Reply Refer to: TE/GE Review Staff
EIN:

LAST DATE FOR FILING A PETITION
WITH THE TAX COURT: July 21, 20XX

UIL: 501.03-01

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Dear :

This is a Final Adverse Determination Letter as to your exempt status under section 501(c)(3) of the Internal Revenue Code. Your exemption from Federal income tax under section 501(c)(3) of the code is hereby revoked effective January 1, 20XX.

Our adverse determination was made for the following reasons:

Organizations described in I.R.C. section 501(c)(3) and exempt under section 501(a) must be organized and operated exclusively for an exempt purpose. Your organization has not performed any activities since your inception and you have provided no information regarding your receipts, expenditures or activities. You have not established that the ORG has been operated exclusively for an exempt purpose. You have failed to meet the requirements of I.R.C. section 501(c)(3) and Treasury Regulation section 1.501(c)(3)-1(d) in that you have failed to provide information and establish that you were operated exclusively for an exempt purpose.”

Contributions to your organization are no longer deductible under section 170 of the Internal Revenue Code. You are required to file Federal income tax returns on Form 1120. These returns should be filed with the appropriate Service Center for the year ending December 31, 20XX, and for all years thereafter.

Processing of income tax returns and assessment of any taxes due will not be delayed should a petition for declaratory judgment be filed under section 7428 of the Internal Revenue Code.

If you decide to contest this determination in court, you must initiate a suit for declaratory judgment in the United States Tax Court, the United States Claim Court or the District Court of the United States for the District of Columbia before the 91st day after the date this determination was mailed to you. Contact the clerk of the appropriate court for the rules for initiating suits for declaratory judgment.

You also have the right to contact the office of the Taxpayer Advocate. However, you should first contact the person whose name and telephone number are shown above since this person can access your tax information and can help you get answers. You can call 1-877-777-4778 and ask for Taxpayer Advocate assistance. Or you can contact the Taxpayer Advocate from the site where the tax deficiency was determined by calling: Or you can contact the Taxpayer Advocate nearest you by calling, () , or writing to: Internal Revenue Service, Office of Taxpayer Advocate,

Taxpayer Advocate assistance cannot be used as a substitute for established IRS procedures, formal appeals processes, etc. The Taxpayer Advocate is not able to reverse legal or technically correct tax determinations, nor extend the time fixed by law that you have to file a petition in the United States Tax Court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling.

We will notify the appropriate State Officials of this action, as required by section 6104(c) of the Internal Revenue Code.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely yours,

Marsha A. Ramirez
Director, EO Examinations



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY

Internal Revenue Service
7850 SW 6th Court, Room 306
Plantation, FL 33324

February 19, 2008

ORG
ADDRESS

Taxpayer Identification Number:

Form:

990

Tax Year(s) Ended:

Person to Contact/ID Number:

Contact Numbers:

Telephone:

Fax:

Certified Mail - Return Receipt Requested

Dear :

We have enclosed a copy of our report of examination explaining why we believe revocation of your exempt status under section 501(c)(3) of the Internal Revenue Code (Code) is necessary.

If you accept our findings, take no further action. We will issue a final revocation letter.

If you do not agree with our proposed revocation, you must submit to us a written request for Appeals Office consideration within 30 days from the date of this letter to protest our decision. Your protest should include a statement of the facts, the applicable law, and arguments in support of your position.

An Appeals officer will review your case. The Appeals office is independent of the Director, EO Examinations. The Appeals Office resolves most disputes informally and promptly. The enclosed Publication 3498, *The Examination Process*, and Publication 892, *Exempt Organizations Appeal Procedures for Unagreed Issues*, explain how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

You may also request that we refer this matter for technical advice as explained in Publication 892. If we issue a determination letter to you based on technical advice, no further administrative appeal is available to you within the IRS regarding the issue that was the subject of the technical advice.

If we do not hear from you within 30 days from the date of this letter, we will process your case based on the recommendations shown in the report of examination. If you do not protest this proposed determination within 30 days from the date of this letter, the IRS will consider it to be a failure to exhaust your available administrative remedies. Section 7428(b)(2) of the Code provides, in part: "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted its administrative remedies within the Internal Revenue Service." We will then issue a final revocation letter. We will also notify the appropriate state officials of the revocation in accordance with section 6104(c) of the Code.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

Marsha A. Ramirez
Director, EO Examinations

Enclosures:
Publication 892
Publication 3498
Report of Examination

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit 990
Name of Taxpayer ORG		Year/Period Starting January 1, 20XX

LEGEND

ORG = Organization name XX = Date XYZ = State President = president

Issue:

Whether ORG (Organization) operates exclusively for an exempt purpose under section 501(c)(3) of the Internal Revenue Code.

Facts:

The Organization's Application for Recognition of Exempt Status, Form 1023, stated that its mission was to "improve the quality of life for persons in the very low, low, and moderate income segment [sic] of XYZ ... through home ownership." The contemplated activities stated in the application included programs to provide home ownership education, credit counseling, and mortgage assistance. The Internal Revenue Service recognized the Organization as a tax-exempt organization described in section 501(c)(3) by letter dated March 27, 19XX.

President, President of the Organization, stated to the examining agent that the Organization applied for exempt status in order to engage in down payment assistance. President also stated that the Organization had handled only 2 down payment assistance transactions and had been inactive for some time. In a telephone conversation with the agent, he agreed that the exempt status of the Organization should be terminated.

A copy of Letter 3606 and attachments, dated April 21, 20XX, requesting that the Organization provide information with respect to the year ending December 31, 20XX, is attached as Exhibit A. The Organization failed to respond to the Internal Revenue Service's correspondence. On October 20, 20XX, the Revenue Agent sent out via certified mail Letter 1477, along with a second copy of Letter 3606 and attachments (which had been mailed on April 21, 20XX); it was returned by the U.S. Postal Service marked "UNCLAIMED." The envelope indicated that notices were delivered on October 23, 20XX, on November 6, 20XX, and on November 13, 20XX.

The Organization was administratively dissolved by the State of XYZ on September 16, 20XX, for failure to file the required annual report.

On March 2, 20XX, the Revenue Agent made initial contact by phone after internet research to locate a contact telephone number. The Revenue Agent sent Letter 3606, Form 4564 IDR, and Publication 1 on that same day with a request for a response by April 2, 20XX. The person who answered the telephone stated that the Organization never had gross receipts of \$ or more and that the Organization had completed only a few sales involving down payment assistance. The person also stated that the organization has been inactive for some time.

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The agent sent an Information Document Request on March 22, 20XX, in which he requested the following documents:

- a. Resolution signed by at least 2 officers of the Organization which states the date the Organization was dissolved.
- b. A copy of the meeting minutes that documents the dissolution vote and effective date of the dissolution.
- c. A statement signed by an officer regarding the disposition of the Organization's assets at the time of dissolution.
- d. Copies of the Organization's bank statements and cancelled checks for the last year.
- e. A final Information Return, Form 990 or 990 EZ, with the header information completed, the date of dissolution shown as the period ending date, and the box for "Final Return" checked.

The Organization provided none of the requested documents. In addition, President stopped taking and returning the agent's calls.

The Revenue Agent tried to contact the Organization by telephone on April 2, 20XX, April 4, 20XX, and on April 5, 20XX and left messages. No one returned the phone call. On April 6, 20XX, the Revenue Agent finally spoke with someone at the contact number by telephone. The person stated that the President had been out of town visiting with his sick mother and did not have a chance to gather the information requested. The Revenue Agent extended the deadline to April 27, 20XX to submit the requested information.

The Revenue Agent never received a response to an Information Document Request. The Revenue Agent left additional messages for the taxpayer on May 7, 20XX, May 8, 20XX, May 9, 20XX, May 11, 20XX, and May 15, 20XX; he never received a return phone call.

To date, the Organization has not submitted the documentation that was requested in order to terminate the exempt status of the organization; in addition, the agent has received no return phone calls to explain why information was not submitted.

The Internal Revenue Service has no record that the Organization has ever filed a Form 990. According to the information received by telephone, the Organization did not have gross receipts over \$ in any year.

LAW:

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An organization described in section 501(c)(3) must be organized and operated exclusively for exempt purposes. I.R.C. § 501(c)(3).

Every person liable for any tax imposed by this title, or for the collection thereof, shall keep such records, render such statements, make such returns, and comply with such rules and regulations as the Secretary may from time to time prescribe. I.R.C. § 6001.

Except as provided in section 6033(a)(2), "every organization exempt from taxation under section 501(a) shall file an annual return, stating specifically the items of gross income, receipts, and disbursements, and such other information for the purpose of carrying out the internal revenue laws as the Secretary may by forms or regulations prescribe, and shall keep such records, render under oath such statements, make such other returns, and comply with such rules and regulations as the Secretary may from time to time prescribe." I.R.C. § 6033(a)(1).

Section 6011 requires any person made liable for any tax imposed by this title, or with respect to collection thereof, to make a return or statement according to the forms and regulations prescribed by the Secretary. Every person required to make a return or statement shall include therein the information required by such forms or regulations.

With some exceptions, organizations exempt from Federal income tax under section 501(a) must file Form 990-T, Exempt Organization Business Income Tax Return, to report unrelated business income tax.

Treasury Regulation section 1.6001-1(a), in conjunction with Treasury Regulation section 1.6001-1(c), provides that every organization exempt from tax under section 501(a) of the Internal Revenue Code and subject to the tax imposed by section 511 on its unrelated business income must keep such permanent books or accounts or records, including inventories as are sufficient to establish the amount of gross income, deduction, credits, or other matters required to be shown by such person in any return of such tax. Such organization shall also keep such books and records as are required to substantiate the information required by section 6033.

Treasury Regulation section 1.6001-1(e) states that the books or records required by this section shall be kept at all times available for inspection by authorized Internal Revenue officers or employees, and shall be retained so long as the contents thereof may become material in the administration of any Internal Revenue law.

Treasury Regulation section 1.6033-2 provides that every organization which is exempt from tax, whether or not it is required to file an annual information return, shall submit such additional information as may be required by the Internal Revenue Service for the purpose

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of inquiring into its exempt status and administering the provisions of subchapter F (section 501 and following), chapter 1 of subtitle A of the Code, section 6033, and chapter 42 of subtitle D of the Code.

Revenue Ruling 59-95, 1959-1 CB 627, describes a situation in which an exempt organization that was requested to produce a financial statement as of the end of the year and a statement of its operations during such year. Its records were so incomplete that it was unable to furnish such statements. Section 6033 of the Internal Revenue Code of 1954 provides that every organization, except as provided therein, exempt from taxation under section 501(a) of the Code shall file an annual return, stating specifically the items of gross income, receipts, and disbursements, and shall keep such records, render under oath such statements, make such other returns and comply with such rules and regulations as the Secretary of the Treasury or his delegate may from time to time prescribe. The Service held that the "failure or inability to file the required information return or otherwise to comply with the provision of section 6033 of the Code and the regulations which implement it, may result in the termination of the exempt status of an organization previously held exempt, on the grounds that the organization has not established that it is observing the conditions required for the continuation of an exempt status."

Revenue Ruling 2006-27, 2006-21 I.R.B. 915, sets forth standards for determining when an organization that provides funds to homebuyers for down payment or closing costs qualifies for exemption from Federal income tax under section 501(c)(3). In Situation 2, an organization provides down payment assistance to low-income individuals and families. It offers financial counseling seminars and conducts other educational activities to help prepare potential low-income homebuyers for the responsibility of home ownership. Under the organization's grantmaking procedures, the staff considering a particular applicant's application knows the identity of the party selling the home to the grant applicant and may also know the identities of other parties, such as real estate agents and developers, who may receive a financial benefit from the sale. Moreover, in substantially all of the cases in which the organization provides down payment assistance to a homebuyer, the organization receives a payment from the home seller. Further, there is a direct correlation between the amount of the down payment assistance provided by the organization to the homebuyer and the amount of the home seller's payment to the organization. Finally, the organization does not conduct a broad based fundraising campaign to attract financial support. Rather, most of the organization's support comes from home sellers and real estate-related businesses that may benefit from the sale of homes to buyers who receive the organization's down payment assistance.

The revenue ruling holds that the organization described in Situation 2 is not exempt from Federal income tax under section 501(c)(1) because it finances its down payment assistance activities with contributions from sellers and individuals that stand to benefit

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from the transactions that the organization facilitates. The fact that the organization relies on seller's payments for most of its funding and in substantially all of the transactions the payment from a home seller corresponds to the amount that the organization gives to a homebuyer indicate that the benefit to the home seller is a critical aspect of an organization's operations. Revenue Ruling 2006-27, also holds that the payments to homebuyers in Situation 2 are not gifts, but rebates or purchase price reductions because sellers make the payments, not out of detached and disinterested generosity, but in response to an anticipated economic benefit, namely the sale of their home at a higher price and in less time.

Situations 1 and 3 in Revenue Ruling 2006-27 describe organizations that provide down payment and closing costs to qualified homebuyers, in the manner that could qualify for exemption from Federal income tax under section 501(c)(3). In Situation 1, the organization's purposes and activities relieve the poor, distressed and underprivileged by enabling low-income individuals and families to obtain decent, safe and sanitary homes. In Situation 3, the organization's purposes and activities combat community deterioration in a specific, economically depressed area that has suffered a major loss of population and jobs. Importantly, these organizations conduct broad based fundraising programs to attract gifts, grants, and contributions from several foundations, businesses, the general public, and receive funding from government agencies. See Rev. Rul. 2006-27. Their policies and procedures prevent the grantmaking staff from knowing identities of the parties involved in the transaction and whether anyone related to the transaction had made or agreed to make or made a contribution to the organization.

Analysis:

The organization has failed to respond to the Internal Revenue Service's requests for information and documents. The Service's repeated attempts to contact the Organization were unsuccessful. Under sections 6001, the Organization is required to keep the records and to provide them to the Service upon request to show that the Organization is in fact not liable for the Federal income tax. The Organization failed to do this. Additionally, the Organization failed to submit information that would enable the Service to verify that the organization was in fact not liable for filing the returns under section 6033 or section 6011. Accordingly, the organization failed to satisfy the requirements of section 6001, 6033, and 6011.

The Organization was administratively dissolved by the State of XYZ for failure to file the required annual report. Because the Organization failed to respond to the Service's requests for information and records, the Service has been unable to confirm that the Organization has operated its down payment assistance program in a manner that is consistent with the requirements under section 501(c)(3).

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Conclusion:

The Organization did not respond to the Information Document Request and produce the requested records; therefore, the Organization has failed to meet the reporting requirements under sections 6001 and 6033. The Organization failed to establish that it was organized and operated exclusively for exempt purposes. Instead, it appears that the organization operated a down payment assistance program in the manner similar to the organization described in Revenue Ruling 2006-27, Situation 2, which the Service ruled as inconsistent with the section 501(c)(3) purposes. Accordingly, the organization's exempt status is revoked effective January 1, 20XX.

Consequently, the organization must file Forms 1120 for the tax period ending December 31, 20XX, and all subsequent periods.

The position of the Organization is not known; it has the opportunity to file a protest within 30 days.